

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK

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THE FOOTBALL ASSOCIATION )  
PREMIER LEAGUE LIMITED AND )  
BOURNE CO., ET AL., ON BEHALF )  
OF THEMSELVES AND ALL OTHERS )  
SIMILARLY SITUATED,, )  
 )  
PLAINTIFFS, )  
vs. ) 07 CIV. 3582 (LLS)  
 )  
YOUTUBE, INC., YOUTUBE, LLC )  
AND GOOGLE, INC.,, )  
 )  
DEFENDANTS. )  
 )  
 )  
 )  
VIACOM INTERNATIONAL INC., )  
COMEDY PARTNERS, COUNTRY MUSIC)  
TELEVISION, INC., PARAMOUNT )  
PICTURES CORPORATION, AND )  
BLACK ENTERTAINMENT )  
TELEVISION, LLC, )  
 )  
PLAINTIFFS, )  
vs. ) 07 CIV. 2103 (LLS)  
 )  
YOUTUBE, INC., YOUTUBE, LLC )  
AND GOOGLE, INC.,, )  
 )  
DEFENDANTS. )  
 )

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VIDEOTAPED DEPOSITION OF JIM PATTERSON  
FRIDAY, DECEMBER 18, 2009  
SAN FRANCISCO, CALIFORNIA  
Job No. 18411

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VIDEOTAPED DEPOSITION OF JIM PATTERSON, TAKEN  
ON BEHALF OF THE PLAINTIFFS, AT 9:05 A.M.,  
WEDNESDAY, DECEMBER 16, 2009 AT 601 CALIFORNIA  
STREET, SUITE 1400, SAN FRANCISCO, CALIFORNIA BEFORE  
MARY JACKSON, CSR NO. 8688, PURSUANT TO NOTICE.

## A P P E A R A N C E S

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ALSO PRESENT: ADAM BAREA, Counsel for Google

ARMANDO CARRASCO, Videographer

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1 SAN FRANCISCO, CALIFORNIA;

2 FRIDAY, DECEMBER 18, 2009, 9:05 A.M.

3

4 8:26 THE VIDEOGRAPHER: Today's videotaped

5 deposition of Jim Patterson is taken on

6 December 18th, 2009 at Girrard Gibbs LLP, 601

7 California Street Suite, 1400 San Francisco,

8 California in the matter Viacom International versus

9 YouTube, Incorporated. Case numbers are 07CV2103

10 and 07CV3582. In Court Southern District of New

11 York. My name is Armando Carrasco. I represent

12 David Feldman Worldwide located at 600 Anton

13 Boulevard, Suite 1100, Costa Mesa, California.

14 9:06 We are now commencing at 9:05 a.m. Will

15 all present please identify themselves beginning

16 with the witness?

17 9:06 THE WITNESS: My name is Jim Patterson.

18 9:06 MS. REES: Maura Rees from Wilson Sonsini

19 representing the YouTube defendants.

20 9:06 MR. BAREA: Adam Barea, Google, Inc.

21 9:06 MR. GALDSTON: Benjamin Galdston

22 Bernstein, Litowitz, Berger & Grossman on behalf of

23 the class plaintiffs.

24 9:06 MS. MAGUIRE: Sarah Maguire from Jenner &

25 Block on behalf of Viacom.

1 9:06 MR. PLATZER: Luke Platzer from Jenner &  
2 Block on behalf of the plaintiffs in the Viacom  
3 action.

4 9:06 THE VIDEOGRAPHER: Thank you. Will the  
5 court reporter please swear in the witness.

6 9:06 JIM PATTERSON,

7 9:06 having been first duly sworn, was  
8 9:06 examined and testified as follows:

9 9:06

10 9:06 EXAMINATION

11 9:06 MR. PLATZER: Q. Good morning. Can you  
12 please state your full name and address for the  
13 record please.

14 9:06 A. My name is Jim Patterson. I live at 88  
15 Townsend in San Francisco.

16 9:07 Q. And you're employed by YouTube?

17 9:07 A. Yes.

18 9:07 Q. What is your position?

19 9:07 A. I am a group product manager is my title.

20 9:07 Q. And what are your responsibilities?

21 9:07 A. I coordinate product development  
22 activities around a subset of YouTube.

23 9:07 Q. And what -- what subset of YouTube do you  
24 coordinate product activities around?

25 9:07 A. At the moment, I am focused on ecommerce

1       it actually happens. You mentioned earlier that  
2       partners access YouTube videos through the Internet;  
3       is that correct?

4     9:55       A.    Partners access the YouTube service  
5                  through the Internet, yes.

6     9:56       Q.    So YouTube stores the videos on its own  
7                  servers and partners can then render those videos on  
8                  their services or devices?

9     9:56       A.    Yes.

10    9:56       Q.    Has that always been the case for all  
11                partners?

12    9:56       A.    Has which always been the case?

13    9:56       Q.    That videos themselves remain posted on  
14                YouTube's own servers?

15    9:56       A.    I believe that has almost always been true  
16                except for one very early case and then only on a  
17                very small scale.

18    9:56       Q.    Was that Verizon?

19    9:56       A.    Yes.

20    9:56       Q.    And in the case of Verizon, did YouTube  
21                deliver copies of the videos to Verizon?

22    9:56       A.    I believe, yes.

23    9:57       Q.    During what time frame was that method of  
24                syndication used?

25    9:57       A.    I believe it was around 2006.

1 9:57 Q. And about how long did it last?

2 9:57 A. I don't know for sure. I believe it

3 was -- I don't know for sure. I can -- I can give

4 you my sense, but I can't say authoritatively.

5 9:57 Q. Give me your sense please.

6 9:57 A. My sense is it's probably about six

7 months.

8 9:57 Q. Okay. At that point -- at some point --

9 sorry strike that. At some point Verizon began

10 accessing videos hosted on YouTube servers?

11 9:57 A. Yes.

12 9:57 Q. And are there any partners other than

13 Verizon to whom YouTube delivered copies of the

14 video for syndication?

15 9:57 A. I don't believe so.

16 9:57 Q. That wasn't the procedure used for Helio?

17 9:58 A. I don't believe so.

18 9:58 Q. Roughly how many videos did YouTube

19 syndicate to Verizon?

20 9:58 MS. REES: Objection, vague as to time,

21 vague as to syndicate.

22 9:58 MR. PLATZER: That's a fair -- that's a

23 fair objection. Let me try to rephrase the

24 question.

25 9:58 MR. PLATZER: Q. During the period of

1 believe it was late 2007.

2 10:31 Q. You've used the term automated to describe  
3 the process that was put into place after the manual  
4 selection. Can you explain what you mean by  
5 automated?

6 10:31 MS. REES: Objection, outside the scope to  
7 the extent you're asking for technical details, but  
8 again you can answer to your understanding.

9 10:31 THE WITNESS: When a partner provides or  
10 user provides a video to YouTube, that video needs  
11 to be stored by us in a combination of bits, and in  
12 order to deliver the YouTube service to make the  
13 YouTube service available to a number of different  
14 devices and over different Internet connection  
15 speeds, we transcode the video into multiple  
16 formats. And we do that automatically for each  
17 video.

18 10:32 Q. Okay. So at some point in time, YouTube  
19 began automatically transcoding every video that was  
20 uploaded to the YouTube service into a format that  
21 was appropriate to be accessed by a wireless device?

22 10:32 A. All or nearly all, yes.

23 10:32 Q. What about videos that were uploaded by  
24 users before YouTube began automatically transcoding  
25 all or nearly all uploaded videos into a format that

1       was appropriate for wireless devices? Did YouTube  
2       go back and transcode those as well?

3   10:33       A.     I imagine -- my understanding is that now  
4       we are transcoding all or nearly all of the videos  
5       that have been uploaded to YouTube into multiple  
6       formats. So I believe the answer is yes.

7   10:33       Q.     Just to be clear, I'm not asking about  
8       what happens when a user uploads a video.

9   10:33       A.     Yes.

10   10:33       Q.     I'm asking what happened to videos --

11   10:33       A.     Yes.

12   10:33       Q.     -- that users had previously uploaded.  
13       YouTube went back and transcoded those?

14   10:33       A.     That is my understanding.

15   10:33       Q.     Okay. And the users who uploaded those  
16       videos didn't prompt YouTube to do that?

17   10:33           MS. REES: Objection, calls for  
18       speculation, vague.

19   10:33           THE WITNESS: My understanding is that  
20       they were presented with a user interface that gave  
21       them the ability to choose whether or not it would  
22       also be available on mobile devices. So it's  
23       reasonable that they would have understood that that  
24       would be happening.

25   10:34       Q.     Okay. But that interface, that was

1           presented to users who were up loading videos after  
2           YouTube started automatically transcoding everything  
3           that was uploaded, right?

4 10:34           MS. REES: Objection, vague.

5 10:34           THE WITNESS: Yeah, I don't know precisely  
6           when that user interface was introduced?

7 10:34           MR. PLATZER: Q. But users who uploaded  
8           videos before YouTube started automatically  
9           transcoding everything, that interface wasn't  
10           presented to them, right?

11 10:34           MS. REES: Objection. This is outside the  
12           scope and it's, again, vague.

13 10:34           THE WITNESS: I don't know. That would  
14           have been in the very early days of YouTube. And if  
15           YouTube had intended to make a mobile version  
16           available, if that had always been part of the plan  
17           and the vision, then that may very well have been  
18           part of the very early user interface.

19 10:35           MR. PLATZER: Q. Okay. So you just  
20           don't know either way --

21 10:35           A. Right.

22 10:35           Q. -- when that user interface became  
23           available?

24 10:35           A. Yeah.

25 10:35           Q. When YouTube started transcoding its back

1           catalog, were the videos prioritized in any way so  
2           that some category of videos were transcoded first?

3   10:35           MS. REES: Objection, outside the scope.

4   10:35           THE WITNESS: I imagine that they were.

5           And this -- this Exhibit 3 that you've provided  
6           suggests they were.

7   10:35           MR. PLATZER: Q. But do yourself have  
8           any knowledge --

9   10:35           A. No.

10   10:35          Q. -- of -- do you know by when -- by what  
11           point in time was the entire YouTube library made  
12           available in several formats?

13   10:36          A. I don't know authoritatively when we  
14           launched the mobile website with a full catalog. So  
15           I estimate that that was true or approximately true  
16           by late 2007.

17   10:36          Q. Okay. And do you know when YouTube  
18           started the process of transcoding its back catalog?

19   10:37          A. No.

20   10:37          Q. And we been talking so far about  
21           transcoding of the library into format for wireless  
22           carriers. Was a different format used for set top  
23           device boxes that -- to whom YouTube syndicated  
24           videos?

25   10:37          A. Videos were transcoded into multiple

1 formats. Most formats are used or accessible by  
2 different categories of devices. So I'm not quite  
3 sure how to answer your question. I don't know of  
4 any formats that were created, or any specific  
5 transcodes that were made specifically for  
6 televisions or set top boxes.

7 10:38 MR. PLATZER: This is another logical  
8 break in the questioning. Another good time to take  
9 a break?

10 10:38 MS. REES: Sure.

11 10:38 THE VIDEOGRAPHER: Now going off the  
12 record. The time is 10:38 a.m.

13 10:45 (Whereupon a recess was taken.)

14 10:46 THE VIDEOGRAPHER: We are now back on the  
15 record. The time is 10:45 a.m.

16 10:46 MR. PLATZER: Q. Do want to do a little  
17 bit of followup on the last topic before we move on  
18 to the next subject area.

19 10:46 But to recap, at some point in time, you  
20 manually selected all the videos that it made  
21 available on its mobile site.

22 10:46 MS. REES: Objection, vague and misstates  
23 testimony.

24 10:46 THE WITNESS: Yes, very small number of  
25 videos, yes.

1 10:46 MR. PLATZER: Q. Those videos were also  
2 syndicated to YouTube wireless partners at the time?

3 10:46 MS. REES: Objection, misstates testimony.

4 10:46 THE WITNESS: One partner at least, yes.

5 10:46 MR. PLATZER: Q. That partner was  
6 Verizon?

7 10:46 A. Yes.

8 10:46 Q. And at some point thereafter, YouTube made  
9 its entire library available to mobile carriers,  
10 correct?

11 10:47 A. Technically, YouTube has always made its  
12 entire library available to mobile carriers through  
13 the youtube.com website. So any mobile phone that  
14 has a sufficiently powerful browser can today and  
15 has always been able to visit youtube.com and see  
16 the full catalog.

17 10:47 Q. Okay. But maybe to ask the question more  
18 clearly, at some point after the manual carrier,  
19 YouTube made its entire catalog available to  
20 wireless carriers in a format that was deemed more  
21 appropriate for wireless phones?

22 10:47 A. Yes, that is correct.

23 10:47 Q. But you don't know when the manual  
24 selection period ended and the automatic period  
25 began?